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8 UNITED STATES BANKRUPTCY COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 In re Case No.10-11995

11 Charles Denis Downie and Lydia Downie Chapter 13

12 Debtors(s)

MOTION FOR ORDER
DETERMINING VALUE OF SECURED
13 CLAIM AND FOR ORDER AVOIDING
LIEN; DECLARATION OF DEBTOR
14

15 To: AMERICAN GENERAL FINANCE:

16 Charles Denis Downie and Lydia Downie, Debtor(s) herein, hereby move the Court for
17 an order determining the value of the secured claim of American General Finance ("Junior
18 Lienholder") as zero dollars (\$0) and for an order avoiding the second priority lien of Junior
19 Lienholder upon Debtor's discharge. In support of this motion, Debtor(s) represent:

20 1. This Chapter 13 case was commenced by voluntary petition on May 26, 2010.

21 2. Debtor(s) are the owners of real property located at 10133 Fairway Dr , Kelseyville,
22 CA 95451 (APN: 043-573-22) (hereinafter the "Real Property").

23 3. On or about 3/01/04, Debtors borrowed a sum of money from Dp Vet Affairs ("Senior
24 Lienholder"). In exchange, debtors gave the lender a Promissory Note with loan number 934328

1 and granted it a first priority security interest in the Real Property which was recorded as a first
2 Deed of Trust. As of filing, the balance owed under the Note to the Senior Lienholder is
3 approximately \$178,328.46.

4 4. On or about 7/07/06, Debtors borrowed an additional sum of money from American
5 General Finance (“Junior Lienholder”). In exchange, debtors gave the Junior Lienholder a
6 Promissory Note with Loan No. 7062569000667204 and granted it a second priority security
7 interest in the Real Property which was recorded as a first Deed of Trust which was recorded as a
8 Deed of Trust in the Lake County Recorder’s Office on 7/12/2006, as Instrument No.
9 2006018294. At the time of the filing of the petition, the balance owed under the note to the
10 Junior Lienholder is approximately \$44,786.63.

11 5. On or about November 29, 2010, Appraiser Leslie A. Puppo conducted an appraisal of
12 the property and concluded that the property is worth \$120,000. A copy of Ms. Puppo’s appraisal
13 and declaration was filed with the court on November 29, 2010 as Document #38..

14 6. The second priority claim of Junior Lienholder is wholly unsecured pursuant to Section
15 506(a) because the value of the Real Property is less than the balance owed under the first
16 priority Note and Deed of Trust. 11 U.S.C. § 506(a). As such, the second priority lien of Junior
17 Lienholder is subject to avoidance upon Debtor(s)’ successful completion of their Chapter 13
18 Plan. 11 U.S.C. § 1322(b)(2).

19 WHEREFORE, Debtors request that the Court enter an order disallowing the secured
20 claim of American General Finance, and for an order avoiding the lien of American General
21 Finance upon completion of the debtors Chapter 13 Plan and bankruptcy discharge.

22 Date: January 13, 2011

/s/ Dan B. Beck

Dan B Beck

Attorneys for Debtor(s)

DECLARATION OF CHARLES DOWNIE

I, CHARLES DOWNIE am the debtor described in the above motion. Based on my personal knowledge and my examination of the documents described above I declare under penalty of perjury that the facts described in the above motion are true and correct to the best of my knowledge information and belief.

Date: January 13, 2011

/s/ Charles Downie
Charles Downie